IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 19803 of 2007(G)

PETITIONER:

RAMESH S., S/O. SIVASANKARA PILLAI,
AGED 36 YEARS, MANJERI HOUSE, EXCEL NAGAR NO.39,
THEVALLY P.O., KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR
SRI.LEO GEORGE

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. **THE SECRETARY TO GOVERNMENT,**
   SOCIAL WELFARE DEPARTMENT, GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM.

3. **THE SECRETARY TO GOVERNMENT,**
   PERSONAL AND ADMINISTRATIVE DEPARTMENT,
   GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

4. **THE DIRECTOR OF SOCIAL WELFARE**
   DEPARTMENT, GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SRI. T.T. MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.19803/2007 G

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE DISTRICT DISABILITY BOARD, DISTRICT HOSPITAL, KOLLAM, DTD. 18/05/2004.**

EXT.P2: **COPY OF THE DISCHARGE CERTIFICATE ISSUED BY THE PRINCIPAL, GOVERNMENT VOCATIONAL HIGHER SECONDARY SCHOOL, KARAKURISI, DTD. 21/04/1999.**

EXT.P3: **COPY OF THE DISCHARGE CERTIFICATE ISSUED BY THE PRINCIPAL, GOVERNMENT VOCATIONAL HIGHER SECONDARY SCHOOL, RAMAVARMAPURAM, DTD. NIL.**

EXT.P4: **COPY OF THE DISCHARGE CERTIFICATE ISSUED BY THE PRINCIPAL, GOVERNMENT VOCATIONAL HIGHER SECONDARY SCHOOL, ELANTHOOR DTD. 31/03/2005.**

EXT.P5: **COPY OF G.O.(P) NO.33/2005/SWD DTD. 5/03/2005.**

EXT.P6: **COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C) NO.6803/2007 DTD. 16/03/2007.**

EXT.P7: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT DTD. 1/06/2007.**

EXT.P8: **COPY OF G.O.(P) NO.43/2007 DTD. 9/08/2007.**

/TRUE COPY/

P.A.TO JUDGE

KSS

S. SIRI JAGAN, J.

WP(C) NO. 19803 OF 2007 - G

Dated this the 4th day of September, 2007

J U D G M E N T

The petitioner is a physically handicapped person recruited through Employment Exchange, who was in Government service on provisional basis under Rule 9(a)(i) of the Kerala State and Subordinate Service Rules (for short 'the Rules'). He was in service between 15.8.1998 and 15.8.1999. He was engaged subsequently also. He completed 270 days of provisional service under the Government. By virtue of Ext.P5 Government Order, physically handicapped persons, who were in temporary service between 15.8.1998 and 15.8.1999 through Employment Exchanges under Rule 9(a)(i) of the Rules and who have completed 179 days of service, are entitled to be regularised by reappointment on regular basis in the service of the Government. The petitioner claims that benefit. According to the petitioner, the 179 days

prescribed in Ext.P5 need not necessarily be between 15.8.1998 and 15.8.1999 provided the handicapped employee was in temporary service between that period. For the purpose of completing 179 days, the service put in subsequently also can be taken into account, is the submission made by the petitioner. In support of the same, the petitioner relies on the judgment of the Division Bench in W.A.No.1601 of 2006 followed in Ext.P6 judgment. The petitioner further submits that this position has been accepted by the Government also in Ext.P8 order by excluding even the requirement of 179 days of service for the purpose of regularisation. According to him, by virtue of Ext.P8 order, all what is necessary for such regularisation is being in service between the period 15.8.1998 and 15.8.1999 which qualification the petitioner has got. He would submit that in any event, since the judgment referred to above categorically hold that 179 days need not be between the above said period and the petitioner, after being in

service between the period from 15.8.1998 and 15.8.1999, has put in 270 days of provisional service, he is entitled to be reappointed in regular service.

2. The learned Government Pleader submits that there is an ambiguity in the Government Orders in question, in this regard. According to him, Ext.P8 does not necessarily do away with the requirement of 179 days service. He would submit that Ext.P8 only shows that the benefit of Ext.P5 Government Order would be extended to persons who have completed 179 days' subsequent to 15.8.1999.

3. After hearing both sides, I am satisfied that the decisions in W.A.No.1601 of 2006 and Ext.P6 judgment read with Ext.P8 Government Order entitles the petitioner to be reappointed in regular service. Accordingly, the writ petition is allowed and the respondents are directed to reappoint the petitioner as Vocational Higher Secondary School Teacher on regular basis in terms of Exts.P5 and P8 Government Orders

within two months from the date of receipt of a copy of this judgment.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED: 04-09-2007